



NAGPRA Regulations: Reserved Sections

Who is responsible for promulgating NAGPRA regulations?

Responsibility for promulgating NAGPRA regulations, 43 CFR 10, rests with the Secretary of the Interior, who has delegated drafting responsibility to the National Park Service. NPS follows the Administrative Procedures Act and other statutes in promulgating regulations. Draft regulations are reviewed internally within the National NAGPRA program and other programs within NPS prior to publication for public comment. Interested persons may participate in the rulemaking process through submission of written comments. If revisions of the proposed rule are extensive, the draft regulations may be published a second or more times in the *Federal Register*, inviting written public comment each time.

The Native American Graves Protection and Repatriation Review Committee also has an active role in the preparation of 43 CFR 10. It has provided initial commentary and guidance for preparation of drafts by NAGPRA staff. Once the drafted regulations have been reviewed within the NPS, they are provided to the Review Committee for additional comment.

What sections of the NAGPRA regulations remain to be promulgated?

Section 10.7, Disposition of unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony. This section applies to cultural items found on Federal or tribal land after November 16, 1990. The National NAGPRA program is preparing for consultation with the Review Committee, Native American groups, and representatives of museums and the scientific community prior to drafting the regulation, as stipulated in the statute. Consultations will focus on a several key issues, including the number of unclaimed cultural items held by Federal agencies, agency accessioning and deaccessioning authorities, and the status of culturally unidentifiable remains found on Federal lands.

Section 10.11, Disposition of culturally unidentifiable human remains. This section is intended to carry out Section 8 (c)(5) of NAGPRA by providing a process for the disposition of culturally unidentifiable human remains, and will remove the current requirement that such remains must be retained. Key issues to be addressed include determining who may make a claim for culturally unidentifiable human remains, under what circumstances transfer may take place, and reporting requirements. A draft of this section was provided for Review Committee comment at the May 2002 meeting in Tulsa, OK, and November 2002 meeting in Seattle, OK. Review Comments from the Tulsa and Seattle meetings have been incorporated into a second draft, which is currently in program review.

Section 10.13, Future applicability. This section will provide guidance for museums and agencies that receive new collections or discover previously unreported existing collections that may include Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony. A draft of this section was reviewed by the Review Committee in 1996 and in 2002. A proposed rule has been prepared and is currently under review within the NPS.

Section 10.15(b), Failure to claim where no repatriation or disposition has occurred. This section falls under that part of the regulations dealing with limitations and remedies. No drafting of this section has been completed and key issues remain to be identified.